

**JUL 05 2006**

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**U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

NORIS ELENA MUNOZ-ESTRADA,

Petitioner,

V.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 05-74479

Agency No. A78-917-462

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Argued and Submitted June 15, 2006  
San Francisco, California

Before: SCHROEDER, Chief Judge, GRABER, Circuit Judge, and DUFFY\*\*,  
District Judge

Petitioner Noris Elena Munoz-Estrada, a native of Guatemala, petitions this  
court for review of the immigration judge's denial of her claims for asylum,

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\*This disposition is not appropriate for publication and may not be cited to  
or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

\*\* The Honorable Kevin Thomas Duffy, Senior United States District Judge  
for Southern New York, sitting by designation.

withholding of removal, and relief under the Convention Against Torture. The Board of Immigration Appeals (“BIA”) affirmed, and we look to the decision of the immigration judge (“IJ”) as the basis for our review. Gonzalez v. INS, 82 F.3d 903, 907 (9th Cir. 1996). We conclude that the IJ did not err in deciding that Petitioner suffered harm rising to the level of persecution, but failed to establish a nexus to a protected ground. We therefore deny the petition for review.

Petitioner witnessed the murder of a narcotics official outside his home, where Petitioner had worked as a housekeeper. After the incident, Petitioner did not leave her home for over a month and did not report the murder to the police or assist in the apprehension of the perpetrators. While on her way home from the funeral service, she was attacked and raped by two men she claims were involved in the shooting.

Petitioner argues that her assailants attributed to her a political belief that drug crimes should be prosecuted, but there is no evidence in the record that the attack on Petitioner was anything more than a private act of violence. See, e.g., Molina-Morales v. INS, 237 F.3d 1048, 1051-52 (9th Cir. 2001) (holding that persecution because of personal vendetta for reporting local official to police is not persecution on account of imputed political opinion). Furthermore, Petitioner has

not established that she qualifies for asylum on the basis of membership in a particular social group because she has not presented evidence of a pattern or practice of persecution of people similarly situated (namely, witnesses to the murder) nor has she established that she is a “member of a disfavored group coupled with a showing that she, in particular, is likely to be targeted as a member of that group.” Sael v. Ashcroft, 386 F.3d 922, 925 (9th Cir. 2004) (internal quotation marks omitted). The evidence in the record does not compel a conclusion in Petitioner’s favor, so the immigration judge’s decision must be affirmed. INS v. Elias-Zacarias, 502 U.S. 478, 481 (1992).

Having failed to establish eligibility for asylum, Petitioner necessarily fails to meet the higher burden to qualify for withholding of removal. Lata v. INS, 204 F.3d 1241, 1244 (9th Cir. 2000). Because Petitioner did not report the crime she witnessed or her own attack to the authorities, there is no evidence in the record that the government acquiesced, and Petitioner is therefore ineligible for relief under the Convention Against Torture. See 8 C.F.R. § 208.18.

**PETITION DENIED.**